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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 JOSEPH LEE BROWN,

9 Plaintiff,

10 v.

11 SUE BAUER, *et al.*,

12 Defendants.

No. C09-5656 FDB

**ORDER ADOPTING REPORT AND
RECOMMENDATION DISMISSING
ACTION FOR FAILURE TO STATE A
CLAIM**

13 The Magistrate Judge recommends that this civil rights action be dismissed for failure to
14 state a claim, the Plaintiff having failed to respond to the show cause order directing Plaintiff to
15 cure the deficiencies in his complaint.

16 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen
17 L. Strombom, and the remaining record, does hereby find and ORDER:

- 18 (1) The Court adopts the Report and Recommendation;
- 19 (2) This action is **DISMISSED without prejudice** prior to service for failure to state
20 a claim. **This dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g);** and
- 21 (3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for any
22 Defendants who have appeared, and to the Hon. Karen L. Strombom.

23 DATED this 8th day of February, 2010.

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26 FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE